

TENNESSEE REGULATORY AUTHORITY

Melvin Malone, Chairman
Lynn Greer, Director
Sara Kyle, Director

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

March 23, 1999

David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20436

Re: Comments of the Tennessee Regulatory
Authority Regarding Regional Transmission
Organizations Notice of Intent to Consult
Under Section 202(a) of the Federal Power
Act
Docket No. RM99-2-00

Dear Secretary Boergers:

Please accept the attached supplemental comments of the Directors of the Tennessee Regulatory Authority in the above referenced docket.

If you have any questions please contact me.

Thank you for your consideration.

Sincerely,



K. David Waddell
Executive Secretary

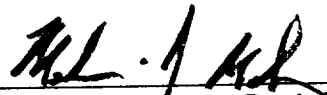
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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

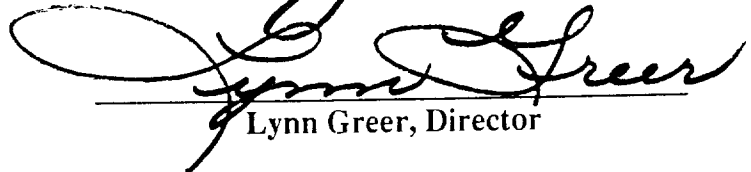
In the matter of:)	
)	Docket No. RM99-2-000
Regional Transmission Organizations)	
Notice of Intent To Consult Under)	
Section 202(a) of the Federal Power Act)	
)	

**SUPPLEMENTAL COMMENTS OF THE
TENNESSEE REGULATORY AUTHORITY**

The following are the supplemental comments of the Tennessee Regulatory Authority ("TRA") in the above referenced docket as requested by FERC. We appreciate the opportunity to respond to these questions, and look forward to participating in further inquiries on this topic.



Melvin Malone, Chairman



Lynn Greer, Director

Sara Kyle, Director

*** DIRECTOR KYLE CHOSE NOT TO SIGN THIS DOCUMENT.

FOLLOW-UP QUESTIONS FROM JAMES HOECKER

- 1. Do you believe RTOs would interfere with your commission's ability to keep the benefits of low cost local generation resources with your state's retail ratepayers? If so, please explain how. If an RTO would interfere, would it be more difficult to maintain low cost local generation resources with your state's retail ratepayers in an ISO structure (where ownership of transmission would remain with the franchised utility) or in an independent transmission company structure?**

The generation and transmission of electricity in Tennessee is almost exclusively provided by the Tennessee Valley Authority ("TVA"), but the Tennessee Regulatory Authority does not regulate any of the electricity activities of TVA. Therefore, the Tennessee Regulatory Authority has little ability to keep TVA's low cost generation within Tennessee under current circumstances. As generation is deregulated, a new supply/demand balance may ultimately force the price of electricity higher in low cost states until an equilibrium price level within the RTO region is reached.

The transmission structure, whether a Transco or an ISO, is of secondary importance relative to generation cost. Currently, TVA generation is held captive to the seven-state TVA service territory. If this generation is allowed to flow to other regions, then the electricity available to Tennessee ratepayers may be higher priced under any transmission structure. In addition, Tennessee ratepayers will bear any costs of establishing and operating an ISO in excess of the costs of continued operation from the existing control areas and transmission owners.

- 2. Many state commissions urged us to be sure that publicly owned transmission is included in any RTOs. I agree that publicly owned transmission participation is crucial, especially in regions where such publicly owned entities own or control substantial amounts of transmission facilities. Are there any clear impediments to public power participation in RTOs? For example, would public power entities be able to participate in a for-profit RTO without jeopardizing their tax exempt debt? How can the Commission mitigate impediments or otherwise facilitate publicly owned transmission participation in RTOs?**

There are several impediments to public power participation in an RTO. Tennessee's transmission is almost exclusively provided by the TVA -- a federal utility with a specific statutory mission. Before any changes could be made to the use of TVA's transmission system Congress may need to authorize changes to the TVA Act. In addition, other laws appear to restrict whether public entities can commit the use of their facilities to another entity with a somewhat different purpose. Also, it may be necessary to amend city charters and statutes in order to commit the use of municipal facilities to an RTO.

If an RTO were organized to include Tennessee, and any profits were reinvested in

transmission infrastructure or debt reduction, then the TRA is not aware of any public power participation impediments, other than possible statutory and charter restrictions from private/public operation of the transmission system through an RTO. In order to facilitate these changes, the FERC may need to participate in any congressional hearings over the TVA Act, as well as in other restructuring legislation at the state and local levels.

- 3. The existing transmission grid is being used more heavily and in different ways than in the past. In many areas, this new use is putting strains on grid operations and potentially compromising service to native load. Yet there is a difference among the states in the urgency for moving toward regional grid management that can best ensure reliable and efficient grid operations. Has your state made an assessment of the adequacy of grid operations? Has your state specifically assessed whether regional grid management would improve grid reliability or efficiency? Could you supply the Commission with reports or otherwise indicate the conclusions of such assessments?**

The Tennessee Regulatory Authority has not yet made an assessment over the adequacy of grid operations in Tennessee. However, enclosed is a 1998 Reliability Review Subcommittee Report to the SERC which addresses grid adequacy in the seven state TVA region, within which most of Tennessee is located.

- 4. I believe the separation of transmission and generation functions will improve the perception of fair access to the grid and attract new generation entrants, either as builders of new generation plants or as new operators of generation plants divested by incumbent utilities. Has your state specifically assessed the cost savings that can be brought to your ratepayers by attracting such new players to the market?**

It is not clear that the possible cost savings arising from new market entrants will more than offset any increases in generation and transmission restructuring costs resulting from the creation of competitive generation markets. In particular, a recent United States Department of Agriculture ("USDA") analysis finds that only five states benefit from electric restructuring, while 19 rural states (including Tennessee) face adverse economic consequences. Regardless of the future benefits of electric deregulation, new players are building generation capacity in Tennessee under the existing regulatory structure. For example, Enron is currently building a new 460 MW plant in Brownsville, Tennessee.

5. What do you believe to be the differences, if any, in the role of state regulation in helping create or govern an independent system operator (ISO) overseen by a stakeholder board versus a transco or similar "wires company" that owns or operates transmission for profit?

The TRA recognizes the authority of the FERC over interstate transactions involving electricity. Nevertheless, many of FERC's future decisions regarding the organizational structure of the electric transmission function may have a profound effect on Tennessee ratepayers. More extensive state and federal oversight may well be necessary for a private transmission company than for a similar not-for-profit entity. The TRA may participate in FERC electric transmission proceedings as either an advisor or as an intervening party to a docketed proceeding.

FOLLOW-UP QUESTIONS FROM CURT HÉBERT

- 1. Do you think of ISO's as the final stage of regional transmission entities, or as a interim steps to truly independent Transco's, and if ISO's represent the transition to a fully competitive transmission market, how should FERC assure that, in fact, ISO's transform into Transco's, and do you favor "sunset dates" for FERC approvals of ISO's?**

It is not clear to the Tennessee Regulatory Authority whether a Transco or an ISO structure is preferable at this time. It is also not clear whether ISOs should be viewed as an interim step to Transcos or some other entity. The approval of ISOs for specific time periods might provide the FERC with the flexibility it needs to monitor and reassess the results of restructuring.

- 2. Under what legal authority can FERC ensure that existing ISO's disband into Transco's and should FERC use that authority against incumbent ISO's?**

The Federal Power Act appears to be silent on this issue. As such, it is not clear what authority the FERC might have to determine that any ISOs previously approved are no longer appropriate and should be disbanded unless the initial approval is for a specific time period.

- 3. As state commissioners, do you prefer regulating for-profit transco's on site approval and the like, or performing an advisory role on multi-state ISO's that FERC regulates, and which system enables you to achieve results that include legitimate state interests, and which system leads to faster and more effective decisions, on matters such as expansion, innovation and improved customer service?**

The TRA recognizes the authority of the FERC over interstate transactions involving electricity. Nevertheless, many of FERC's future decisions regarding the organizational structure of electric transmission companies may have a profound effect on Tennessee ratepayers. More extensive state and federal oversight may well be necessary for a private transmission company than for a similar not-for-profit entity. The TRA would participate in FERC electric transmission proceedings as either an advisor or as an intervening party to a docketed proceeding.

4. **Does it make sense to have an independent organization owning the grid but a separate ISO controlling operations? Why?**

At this planning stage of deregulation, it probably does make sense to allow separate ownership and control over transmission facilities on a trial basis as a precursor to competition. FERC should allow involved parties to gain experience with this structure before mandating such a change nationwide. The Tennessee Regulatory Authority has learned from Telecommunications deregulation that emerging competitive markets are extremely fragile. Moving an industry from an entrenched monopoly position to a workably competitive position will require some protections against the exercise of market power for some time.

5. **Does the United States have a fully operational ISO, three years after Order No. 888 introduced the concept? How long do you think it will take ISO's to become fully operational? Transco's?**

There have been significant developments in different parts of the country in making ISOs operational. As experience is obtained in fledgling ISOs, the length of time it takes for new ISOs to become fully operational may be reduced significantly. Although we are aware of no operational Transcos at this time, the first Transcos are likely to take considerably more time to develop than will later entrants.